REMARKS

Applicant has the following comments in response to the Office Action.

Discussion of Claim Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner stated that independent Claims 1, 3-6, 8, 11-13, 15-18, 20-22, 24-26, 28-33, 35, 37-45, 48-51, 55-57, and 61-76 were rejected under 35 U.S.C. § 102(b) as being disclosed by U.S. Patent No. 4,771,391 to Blasbalg (hereinafter "Blasbalg"). Furthermore, independent Claims 1, 3-6, 8, 11-13, 15-18, 20-22, 24-26, 28-33, 35, 37-45, 48-51, 55-57, and 61-76 were rejected under 35 U.S.C. § 102(e) as being disclosed by U.S. Patent No. 6,014,707 to Miller, et al. (hereinafter "Miller") and U.S. Patent No. 6,003,089, to Shaffer, et al. (hereinafter "Shaffer"). Applicant respectfully disagrees with these rejections. Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See* M.P.E.P. § 2131. Applicant respectfully submits that each of the cited patents does not teach at least one aspect of what is recited in the above-listed claims.

Claim 1, as amended, recites: "A method aggregating a plurality of data packets on a server computer, the method comprising: determining a server load of the server computer; and in response to determining the server load, accumulating the plurality of data packets into an *aggregated data packet until a size of the aggregated data packet exceeds a minimum threshold size* without exceeding a maximum threshold size, and *wherein the minimum threshold size* and the maximum threshold size *is related to the server load.*" Independent Claims 17, 26, 28, 40, 55, 61, 64, 67, and 73 includes similar types of limitations reciting that the use of a minimum threshold size that is set as a function of load of a transmitting device. Applicant respectfully submits that the cited references fail to disclose at least these recitations.

Blasbalg describes a method of controlling packet sizes by monitoring traffic flow over a local area network. In Blasbalg, the system imposes the relationship that the average length of the packets on the network is to be a function of the measured information flow rate on the

network. *See* col. 5, lines 5-11. Thus, Blasbalg fails to teach or suggest providing a minimum packet size that is set as a function of the load of a server device.

Furthermore, Applicant respectfully submits that these limitations are not taught or suggested by Miller. Miller is generally directed to a stateless data transfer protocol with client controlled transfer unit size. Although Miller describes allowing for the size of a data size to be set, it fails to teach or suggest setting a minimum packet size as a function of load of a server.

Moreover, Applicant respectfully submits that these features are not taught or suggested by Shaffer. Shaffer is generally directed to adapting packet lengths in a congested network. In Shaffer, packets are accumulated into a larger packet if time permits before transport. *See Shaffer*, abstract. Shaffer describes that the construction of the aggregated packet can be performed in a switch. However, Shaffer fails to disclose defining a minimum packet size for aggregated data packet, the minimum packet size being set as a function of server load.

Since the cited references fail to teach or disclose at least these recitations, Applicant respectfully submits that this case is in condition for allowance. Furthermore, since Claims 3-6, 8, 11-16, 18, 20-22, 24-26, 28-33, 35. 37-39, 41-45, 48-51, 56, 57, 63, 65, 66, 68-72, and 74-76 each depend on one of Claims 17, 26, 28, 40, 55, 61, 64, 67, and 73, Applicant respectfully submits that these claims are allowable for at least the reasons discussed above and the subject matter of their own limitations.

Summary

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes, the reasons therefore, and arguments in support of the patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and the claims would satisfy the statutory requirements for patentability without the entry of such amendments. In addition, such amendments do not narrow the scope of the claims. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. In light of the

above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

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